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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,916	12/20/2000	Franciscus Lucas Antonius Johannes Kamperman	PHN 17,841	9592

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PHILIPS ELECTRONICS NORTH AMERICAN CORP  
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TARRYTOWN, NY 10591

EXAMINER
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BELIVEAU, SCOTT E

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/741,916	KAMPERMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Scott Beliveau	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 November 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 15 November 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                         |                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                             | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____.                                                |

## **DETAILED ACTION**

### *Drawings*

1. The drawings were received on 15 November 2004. These drawings are approved.

### *Response to Arguments*

2. Applicant's arguments filed 11 November 2004 have been fully considered but they are not persuasive.

With respect to applicant's arguments that the reference fails to particularly enable the receiver to enable a end-user receiver to store a meta-entitlement including an event number range, the examiner respectfully disagrees. The instant application describes meta-entitlements as being pre-booked entitlements from which the user is allowed to make one or more selections from a range or set of events selected by the user. Neither the claims, nor the specification are limiting such that the range need comprise more than one event. The Coutrot et al. reference discloses the particular usage of pre-booked or advance booking pay-per-view events wherein the user may also receive entitlements for one or more events from the plurality of those events provided, thereby defining the limit of event number values or range of events for which access is entitled/allowed. Alternatively, the Impulse pay-per-view mode entitles a "range of events" by nature of it defining a limit to the number of events (each of which is identified by an event number) for which the user is pre-authorized (ex. any 5 events).

With respect to applicant's arguments that the Coutrot et al. reference teaches away from the claimed invention, it is noted that the particular usage of a return channel is not precluded

from the claim and the question whether a reference "teaches away" from the invention is inapplicable to an anticipation analysis. *Celeritas Technologies Ltd. v. Rockwell International Corp.*, 150 F.3d 1354, 1361, 47 USPQ2d 1516, 1522-23 (Fed. Cir. 1998) (The prior art was held to anticipate the claims even though it taught away from the claimed invention. "The fact that a modem with a single carrier data signal is shown to be less than optimal does not vitiate the fact that it is disclosed."). See also *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1349, 51 USPQ2d 1943, 1948 (Fed. Cir. 1999) (Claimed composition was anticipated by prior art reference that inherently met claim limitation of "sufficient aeration" even though reference taught away from air entrapment or purposeful aeration.).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Coutrot et al. article (of record).

In consideration of claims 1 and 8, as set forth in the instant application (IA: Page 1, Lines 1-14), the Coutrot et al. article discloses the existence of "a conditional access system for controlling the access of receivers of end-users to data transmitted from a data content source comprising an uplink system, said uplink system including a scrambler for scrambling the content supplied from the content source, an entitlement control message generator for

generating entitlement control messages containing a control word and an entitlement identification, and a transmitter for transmitted the scrambled content and the entitlement control messages; and a receiver including a descrambler, an entitlement control message decoder and means for storing entitlements wherein if a match exists between the entitlement identification in the entitlement control message and the entitlement of an end-user receiver exists, the entitlement control message decoder supplies a control word to the descrambler for descrambling a part of the received scrambled content for which the receiver is entitled". The Coutrot et al. article further discloses the particular method for facilitating entitlements in connection with the ordering/authorization PPV events wherein "meta-entitlement information includes an event number range" (Section 4.2 – Pay Per View) and may utilize prepaid tokens associated with pre-booked events (Section 2.2 – Management of Entitlements). The "receiver" subsequently "stores" and "extracts from the meta-entitlement an actual entitlement identification including the event selected by the end-user after which a control word from the entitlement control message is supplied to the descrambler if the entitlement identification in the entitlement control message matches the actual entitlement" (Section 6 – Information contained in Messages).

Claim 2 is rejected wherein the "meta-entitlement is transmitted in an entitlement management message to the entitled receiver" (Section 7 – Addressing Messages (EMMs)).

Claim 3 is rejected wherein the "actual entitlement is extracted from both the meta-entitlement and the entitlement control message" such that components from the both the EMM and the ECM are required to decrypt the program.

Claim 4 is rejected wherein the “meta-entitlement” further comprises a “data range” indicating its lifetime (Section 6.1 – Security Principles).

Claim 5 is rejected wherein the “meta-entitlement includes a number of allowed selections” (Section 4.2 – Pay Per View).

Claim 6 is rejected wherein the “receiver side” further comprises a “selection counter . . . set to the number of allowed selections in the meta-entitlement . . . and is decremented by each event election by the end-user” (Section 4.2 Pay Per View).

Claim 7 is rejected as set forth in the rejection of claim 1 wherein the “event number generator” is inherently either directly or indirectly “connected to the entitlement control message generator” by the very nature that both reside at the service provider.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Banker et al. (US Pat No. 6,005,938) reference discloses a system and method wherein entitlements specify authorization of a service number range corresponding to a number of service instances (Col 4, Line 54 – Col 5, Line 4).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 703-305-4907. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703-305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEB

January 17, 2005



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